IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.106 OF 2005
WITH
WRIT PETITION NO.3190 OF 2004

Bharatbhai Mehta and anr. Petitioners

versus

The Union of India and two ors. Respondents

R.D.Dave i/by N.N.Vaishnava & Co. for petitioners

S.G.Rajput for respondent no.2.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 01st March 2005

PC :

1. The petitioner is aggrieved by the order passed by the Debts Recovery Tribunal on 10th September 2004 dismissing the appeal filed by the petitioner. The DRT has taken a stand that the order is passed by the Metropolitan Magistrate u/s 14 and an appeal is not available under section 17 of the Securitisation Act. The respondent bank had issued a notice u/s 13(2) of the Act. The stand taken by the petitioner is that, that notice is not received. That is an

aspect which the DRT can certainly look into inasmuch as against a measure u/s 13(4) an appeal is available u/s 17 of the Act. In the circumstances we set aside the impugned order passed by the DRT and restore the appeal to the file of DRT who will hear and decide it on merits considering the submissions of both parties including that of the respondent bank that necessary notice had been served. Notice of Motion and petition stand disposed of.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)